

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MARGARET MARTINEZ,

Plaintiff,

v.

Case No. 3:23-cv-237-MMH-PDB

HEARD & SMITH, LLP and
DIGITAL MEDIA SOLUTIONS,
LLC,

Defendants.

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ORDER

THIS CAUSE is before the Court on Plaintiff's Memorandum in Opposition to Defendant Heard & Smith LLP's Motion to Dismiss (Doc. 31; Response), filed on May 5, 2023. In the Response, Plaintiff, in addition to asserting that Defendant's motion to dismiss is due to be denied, alternatively asks the Court to "defer ruling to allow for jurisdictional discovery." See Response at 15. Specifically, Plaintiff states that she "would request 120 days to conduct this limited jurisdictional discovery and would propose that the parties then file supplemental briefs within 30 days after the jurisdictional discovery period expires." Id. at 17. However, a request for affirmative relief such as this is not properly made when simply included in a response to a

motion. See Fed. R. Civ. P. 7(b); see also United Tech. Corp. v. Mazer, 556 F.3d 1260, 1280-81 (11th Cir. 2009).

Moreover, even if it were proper to include this request in the Response, the request is otherwise due to be denied for failure to comply with Local Rule 3.01(g), United States District Court, Middle District of Florida (Local Rule(s)). Local Rule 3.01(g) requires certification that the moving party has conferred with opposing counsel in a good faith effort to resolve the issue raised by the motion and advising the Court whether opposing counsel agrees to the relief requested. See Local Rule 3.01(g). Thus, the Court will not entertain Plaintiff's request for relief included in the Response. Plaintiff is advised that, if she wishes to pursue such relief, she is required to file an appropriate motion, in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

ORDERED:

To the extent that she requests affirmative relief from the Court, Plaintiff's Memorandum in Opposition to Defendant Heard & Smith LLP's Motion to Dismiss (Doc. 31) is **DENIED without prejudice**.

DONE AND ORDERED in Jacksonville, Florida, this 8th day of May, 2023.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record